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Speaking points for SB 73

LEGISLATIVE JUDICIAL
Exhibit No. 11
Date 9 JAN 07
Bill No. SB 73

- I am presenting SB 73 for your consideration at the request of Secretary of State Brad Johnson
- SB 73 addresses a non-uniform, non-conforming section of the Uniform Commercial Code
 - The UCC is the business law, mostly uniform throughout the country, which enables secured transactions to occur in a similar fashion for non-real, non-motor property (inventory, business equipment, etc.)
- SB 73 simply would require the Secretary of State's office to provide notice to the debtor (borrower) along with the notice the office already provides to the secured party (lender) when a lien filing is rejected because it has been determined to be improper or fraudulent.
 - Improper or fraudulent attempts to file liens occurs several times per month in the Secretary of State's office
 - Staff identifies and managers approve rejecting the filing, but the named debtor is never notified that the attempt was made
- SB 73 is good public policy because the named debtor may have other liens that are filed against himself or herself in the county or other jurisdiction and not be aware of it
- SB 73 is necessary because debtor notification is a back-stop to a wrong determination made by the Secretary of State's office.
 - All Revised Article 9 liens must be consensual, and if notice of an attempted improper or fraudulent lien is sent to both the secured party and the debtor and both acknowledge that the lien should be filed, it will be
- The problem of improper and fraudulent lien filings is nationwide.
 - Because MCA 30-9A-420 is a non-uniform part of the UCC, Montana's solution to the problem is much easier than in other states
 - Other state's uniform solution is to adopt an expedited district court ruling that requires the involvement of both the secured party and the debtor. Despite the "expedited" nature of the processes, it may take weeks
- SB 73 is an effective and efficient solution to a nationwide problem, and will prove a useful tool against improper and fraudulent lien filings